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BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 97-165-C -- ORDER NO. 97-649
AUGUST 1, 1997

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IN RE: Application of Atlas Communications,)	ORDER
Ltd. for a Certificate of Public)	APPROVING
Convenience and Necessity to Provide)	CERTIFICATE
Local Resold Telecommunications Services)	TO PROVIDE
within the State of South Carolina.)	LOCAL SERVICE

This matter comes before the Public Service Commission of South Carolina ("the Commission") by way of the application of Atlas Communications Ltd. ("Atlas" or "the Company"). The Application requests that the Commission amend Atlas' Certificate of Public Convenience and Necessity to allow Atlas to provide resold and facilities-based local exchange telecommunications services in the State of South Carolina. The Application was filed pursuant to S.C. Code Ann. §58-9-280 (Supp. 1996), and the Regulations of the Commission.

By letter dated May 1, 1997, the Commission's Executive Director instructed Atlas to publish, one time, a prepared Notice of Filing and Hearing in newspapers of general circulation in the areas affected by the Application. The purpose of the Notice of Filing and Hearing was to inform interested parties of the manner and time in which to file the appropriate pleadings for participation in the proceedings and to provide notice of the hearing date on this matter. Atlas complied with this instruction

and provided the Commission with proof of publication of the Notice of Filing and Hearing. Petitions to Intervene were received from BellSouth Telecommunications, Inc. ("BellSouth") and the South Carolina Telephone Coalition ("SCTC").

A hearing was convened on July 17, 1997, at 11:00 a.m. in the Commission's Hearing Room. The Honorable Guy Butler, Chairman, presided. Atlas was represented by John J. Pringle, Jr., Esquire. The Commission Staff ("Staff") was represented by Florence P. Belser, Staff Counsel. BellSouth did not appear at the hearing.

Prior to the hearing, Atlas and the SCTC executed a Stipulation dated June 23, 1997, and the Stipulation was filed with the Commission. As a result of the Stipulation, SCTC withdrew its intervention in the Docket. Atlas offered the Stipulation as a Hearing Exhibit (Hearing Exhibit No. 1) and requested Commission approval of the Stipulation. The Stipulation provides the following:

- (1) The SCTC does not oppose the granting of a statewide Certificate of Public Convenience and Necessity to Atlas if the Commission makes the necessary findings to grant the Certificate and if all stipulated conditions are met;
- (2) Atlas agrees that any Certificate granted by the Commission will authorize Atlas to provide service only to customers located in non-rural local exchange company ("LEC") service areas except as otherwise provided;
- (3) Atlas agrees that it is not requesting the Commission to find whether competition is in the public interest for rural

areas;

(4) Atlas agrees that it will not provide local service, by its own facilities or otherwise, to any customer in a rural incumbent LEC's service area, unless and until Atlas provides such rural incumbent LEC and the Commission with written notice of its intent to do so at least thirty (30) days prior to the date of the intended service. During such notice period, the rural incumbent LEC will have the opportunity to petition the Commission to exercise all rights afforded it under Federal and State law. Atlas also acknowledges that the Commission may suspend the intended date for service in rural LEC territory for ninety (90) days while the Commission conducts any proceeding incident to the Petition or upon the Commission's own Motion, provided that the Commission can further suspend the implementation date upon showing of good cause;

(5) Atlas agrees that if, after Atlas gives notice that it intends to serve a customer located in a rural incumbent LEC's service area, the Commission receives a Petition from the rural incumbent LEC to exercise its rights under Federal or State law, or the Commission institutes a proceeding of its own, then Atlas will not provide service to any customer located within the service area in question without prior and further Commission approval;

(6) Atlas acknowledges that any right which it may have or acquire to serve a rural telephone company service area in South Carolina is subject to the conditions contained herein, and to any

future policies, procedures, and guidelines relevant to such proposed service which the Commission may implement, so long as such policies, procedures and guidelines do not conflict with Federal or State law;

(7) Atlas and the SCTC agree that all rights under Federal and State law are reserved to the rural incumbent LECs, and that the stipulation in no way suspends or adversely affects such rights, including any exemptions, suspensions, or modifications to which they may be entitled; and

(8) Atlas agrees to abide by all State and Federal laws and to participate, to the extent it may be required to do so by the Commission, in the support of universally available telephone service at affordable rates.

This stipulation is consistent with our decision in Order No. 96-494 (Docket No. 96-073-C). It was signed voluntarily by both the SCTC and Atlas, was filed with the Commission prior to the hearing in this matter, and was made a part of the record at the hearing. We therefore approve the stipulation.

In support of its Application, Atlas presented John Fudesco, Executive Vice President of Atlas, to testify. The purpose of Mr. Fudesco's testimony was to present evidence on the technical, managerial, and financial abilities of Atlas to provide local exchange telecommunications services in South Carolina and to discuss the services which Atlas proposes to offer.

DISCUSSION

S.C. Code Ann. §58-9-280 (Supp. 1996) provides that the Commission may grant a certificate to operate as a telephone utility ... to applicants proposing to furnish local telephone service in the service territory of an incumbent LEC.

After full consideration of the applicable law, Atlas' Application, and the evidence presented at the hearing, the Commission finds and concludes that the Certificate sought by Atlas should be granted. The Commission's determination is based on the following criteria as provided in S.C. Code Ann. §58-9-280 (Supp. 1996) and the evidence presented at the hearing which relates to that criteria:

(1) The Commission finds that Atlas possesses the technical, financial, and managerial resources sufficient to provide the services requested. S.C. Code Ann. §58-9-280(B)(1) (Supp. 1996). To demonstrate Atlas's technical qualifications, Mr. Fudesco testified that Atlas is certified as an interexchange carrier in forty-eight (48) states and is certified to provide local intrastate telecommunications services in five (5) states with requests for certification pending in forty-three (43) other states. Mr. Fudesco stated that Atlas will initially rely heavily on resale of existing local exchange company services and facilities. Atlas intends to offer a full range of voice and data telecommunications services including local switched services, special access, private line, Internet access, frame relay, and systems integration of related services.

Concerning Atlas' managerial qualifications, Mr. Fudesco testified that Atlas' management team has considerable experience in management, marketing, network operations, revenue requirements, customer service, and financial and accounting issues. Regarding Atlas' financial resources, the record reveals that Atlas is organized under the laws of the State of Pennsylvania. Mr. Fudesco testified that Atlas has sufficient financial resources to provide local services. According to Mr. Fudesco, Atlas grossed fifty-six (56) million dollars in 1996, which was Atlas' first full year of operation. No other party offered any evidence in opposition to Mr. Fudesco's testimony. Based on the undisputed evidence of the record, the Commission finds that Atlas possesses the technical, financial, and managerial resources sufficient to provide the services requested.

(2) The Commission finds that Atlas will provide services that will meet the service standards of the Commission. S.C. Code Ann. §58-9-280(B)(2) (Supp. 1996). Mr. Fudesco testified that Atlas seeks to provide local exchange telecommunications services. Mr. Fudesco specifically stated that Atlas will comply with all applicable rules, policies, and statutes applicable to the offering of those services and that Atlas fully intends to meet the Commission's service standards. Furthermore, counsel for Atlas stated that Atlas would make certain changes to its tariff, as suggested by Staff, to bring the tariff into compliance with Commission Rules and Regulations. No party offered any evidence to dispute Mr. Fudesco's testimony. Based on the undisputed

testimony from Mr. Fudesco, the Commission believes, and so finds, that Atlas will provide telecommunications services which will meet the service standards of the Commission.

(3) The Commission finds that Atlas' "provision of service will not adversely impact the availability of affordable local exchange service." S.C. Code Ann. §58-9-280(B)(3) (Supp. 1996). Mr. Fudesco stated that Atlas' service offerings would not adversely impact the availability of affordable local exchange service. Mr. Fudesco offered that certification of Atlas will provide competitive local service within South Carolina which will promote competition within the telecommunications industry. The increased competition will benefit consumers by ensuring a wide variety of services and prices, increasing customer choice, promoting efficient use of the network, and expanding the tax base and revenue sources for the state. No party offered any evidence that the provision of local exchange service by Atlas would adversely affect local rates. Therefore, based on the undisputed evidence of record, the Commission finds that provision of local exchange services by Atlas will not adversely impact affordable local exchange service.

(4) The Commission finds that Atlas will support universally available telephone service at affordable rates. S.C. Code Ann. §58-9-280(B)(4) (Supp. 1996). Mr. Fudesco testified that Atlas will comply with the Commission's universal service requirements. No party disputed Mr. Fudesco's testimony. Based on the undisputed evidence of record, the Commission finds that Atlas

will participate in support of universally available telephone service at affordable rates.

(5) The Commission finds that the provision of local exchange service by Atlas "does not otherwise adversely impact the public interest." S.C. Code Ann. §58-9-280(B)(5) (Supp. 1996). Mr. Fudesco offered that approval of Atlas to provide services will benefit consumers by ensuring competitive local service within the State of South Carolina. Mr. Fudesco also offered that approval of Atlas to provide local service would promote competition within the telecommunications industry resulting in the offering of higher quality services at lower prices. Further, Mr. Fudesco stated that increased competition would benefit consumers by ensuring a wide variety of services and prices, increasing customer choice, promoting efficient use of the network, and expanding the tax base and revenue sources for the state. Mr. Fudesco's testimony was undisputed as no party offered any evidence that approval of Atlas' Application would adversely impact the public interest. Therefore, the Commission finds that approval of Atlas' Application for a Certificate to provide local exchange service "does not otherwise adversely impact the public interest." S.C. Code Ann. §58-9-280(B)(5) (Supp. 1996).

Therefore, based on the findings above, the Commission finds and concludes that the Certificate sought by Atlas should be granted.

IT IS THEREFORE ORDERED THAT:

1. The Application of Atlas for a Certificate of Public

Convenience and Necessity to provide resold and facilities-based local exchange telecommunications services in the State of South Carolina is approved.

2. The Stipulation filed by Atlas and the SCTC is approved by this Commission, is binding upon Atlas and the SCTC, and shall be implemented as set forth in the Stipulation. We therefore make no findings or conclusions regarding competition in the rural areas of South Carolina. Atlas shall conduct its operations in compliance with the Stipulation until further Order of the Commission.

3. Atlas shall file, prior to offering local exchange services in South Carolina, a final tariff of its service offerings. The final tariff shall include the modifications and changes as proposed by the Commission Staff and to which Atlas agreed.


4. Atlas shall, in compliance with Commission regulations, designate and maintain an authorized utility representative who is prepared to discuss, on a regulatory level, customer relations (complaint) matters, engineering operations, and tests and repairs. In addition, Atlas shall provide to the Commission in writing the name of the authorized representative to be contacted in connection with general management duties as well as emergencies which occur during non-office hours. Atlas shall file with the Commission the names, addresses, and telephone numbers of these representatives within thirty (30) days of receipt of this Order. (Attachment A shall be utilized for the provision of this

information to the Commission.) Further, Atlas shall promptly notify the Commission in writing if the representatives are replaced. Atlas is directed to comply with all Commission regulations unless expressly waived by the Commission.

5. Atlas shall conduct its business in accordance with Commission decisions and Orders, both past and future, including, but not limited to, any and all Commission decisions which may be rendered in Docket No. 96-018-C regarding local competition.

6. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:


Chairman

ATTEST:


Deputy Executive Director

(SEAL)

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ATTACHMENT A

INFORMATION OF THE AUTHORIZED UTILITY REPRESENTATIVES
FOR INTEREXCHANGE, LOCAL AND AOS COMPANIES

PURSUANT TO SOUTH CAROLINA PUBLIC SERVICE COMMISSION
REGULATION 103-612.2.4(b), each utility shall file and
maintain with the Commission the name, title, address, and
telephone number of the persons who should be contacted in
connection with Customer Relations/Complaints.

Company Name/DBA Name

Business Address

City, State, Zip Code

Authorized Utility Representative (Please Print or Type)

Telephone Number

Fax Number

E-Mail Address

This form was completed by

Signature

If you have any questions, contact the Consumer Services
Department at 803-737-5230